

REMARKS

Reconsideration and allowance of the subject patent application are respectfully requested.

Applicants again respectfully request that receipt of the certified copies of the two (2) priority documents be acknowledged. These documents were submitted on June 28, 2001 as evidenced by the copy of the postcard receipt attached to the response of January 11, 2005.

No amendments are made to the claims. A listing of the pending claims is provided for the Examiner's convenient reference.

Claims 1-21 and 27 were rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Oki et al. (U.S. Patent No. 5,859,969) in view of Takahashi et al. (U.S. Patent No. 6,195,432).

Claims 1, 8, 12 and 21 variously recite a program supply method and system in which a program supplied from a server is executed on a user system to thereby confirm proper operation of the program and, after confirming operation by executing the program on the user system, payment for the program is requested.

Oki et al. discloses a remote installation system and method for enabling a user of a terminal to obtain software through a communication line. As acknowledged in the instant office action, Oki et al. fails to disclose requesting payment for a program after executing the program to confirm its operation as specified in independent claims 1, 8, 12, and 21, for example. See 1/13/06 Office Action, page 2 ("...[Oki et al.] does not explicitly show requesting payment for a program after its proper operation confirmed (sic).")

To cure this acknowledged deficiency, the office action relies on Takahashi et al., which describes a software distribution system in which a user is allowed to make trial use of a free trial sample version (core software) of software, and then purchase a fee charged software portion (passive function file) for enabling the regular operation which is to be incorporated into the core software. See Takahashi et al., col. 26, lines 40-44. The office action alleges that this "trial use" prior to purchase constitutes a disclosure of requesting payment after confirming proper operation of software and that it would have been obvious to incorporate this feature into Oki et al.

Applicants respectfully submit that the office action misreads Takahashi et al. In Takahashi et al., the core software is free and thus there is no request for payment for this core software at any time. In connection with the purchasing of the passive function file, Takahashi et al. clearly describes that payment is made before downloading:

On the other hand, at a time of downloading the passive function file, the server 401 first carries out prescribed user authentication processing and charging processing with respect to a user who made the transmission request for that software, and encrypts the specified passive function file by using the shared key 461 of that user, and then downloads the encrypted passive function file to the client terminal 402. Col. 20, lines 52-59 (emphasis added).

Thus, Takahashi et al. describes core software that is free and additional functions for the core software that can be purchased. Takahashi et al. allows trial usage of the free core software and, if the user is satisfied with the trial use, Takahashi et al. enables the user to purchase additional functions for which a charge is incurred. Takahashi et al. does not anywhere disclose the user is able to use these additional functions prior to payment.

Consequently, it is clear that Takahashi et al. does not in fact request payment for a program after confirmation of the operation thereof (e.g., by executing the program) has been performed. Specifically, “the program” of claim 1, for example, refers to a program that has been executed and whose operation has thereby been confirmed. The only program that has been executed in Takahashi et al. is the free core software, for which payment is never requested because it is free. The payment made by the user in Takahashi et al. is for additional functions. As is clear from the col. 20 excerpt of Takahashi et al. reproduced above, the payment for the additional functions is made before execution of the additional functions.

Because neither Oki et al. nor Takahashi et al. disclose or suggest the concept of requesting payment of the program after confirming operation by executing the program on the user system, the proposed combination of these documents is likewise deficient in this regard. Consequently, claims 1, 8, 12, 21 and 22 patentably distinguish over the proposed combination of these documents.

Claims 2-7 depend from claim 1; claims 9-11 depend from claim 8; and claims 13-20 depend from claim 12. These claims patentably distinguish over Oki et al. and Takahashi et al.

because of these dependencies and because of the additional patentable features contained therein.

Claims 23, 24 and 26 are not identified in any of the statements of rejection, although discussions of these claims appear on pages 6 and 7 of the office action. However, this discussion provides no explanation as to how either Oki et al. or Takahashi et al. provides the notification of operation confirmation specified in claims 23 and 24. For this reason alone, the office action fails to set forth a proper basis for the rejection of these claims. The Examiner makes general reference to the decompression and moving/re-naming of files and icon registration discussed with reference to Figure 5 of Oki et al. However, these operations relate to installing a program on the terminal side. The decompression and moving/re-naming of files and icon registration do not confirm proper operation of a program. Indeed, Oki et al. at col. 10, 38-39 describe that program operation begins when an icon is selected, an operation which is not part of the Figure 5 operations.

Claim 27 depends from claim 23 and thus Oki and Takahashi et al. are likewise deficient with respect to this claim.

Claim 21 was further rejected under 35 U.S.C. Section 103(a) as allegedly being “obvious” over Platt (U.S. Patent No. 5,421,009) in view of Takahashi et al.

As discussed in the prior response of August 17, 2005, Platt discloses a method of remotely installing software from a central location. Before attempting to install the software, Platt ensures that the remote system can be reached through the network, that the remote system has the capability of running processes remotely, that the remote system has all the commands necessary to perform the installation, that the remote system has the correct hardware and software to support the installation and that sufficient disk space exists on the remote computer system for the installation. Platt then combines all files that are being remotely installed into a single data stream, sends this single data stream over the network to the remote computer system, and separates the data stream into the original files on the remote system. Platt contains no disclosure of, for example, requesting payment for a program, much less of requesting such payment after the program is executed on a user system to confirm its proper operation as specified in claim 21. See also 1/13/2006 Office Action, page 8 (“...[Platt] does not explicitly show requesting payment for a program after its proper operation (sic) confirmed.”).

Takahashi et al. is alleged in the office action to cure the deficiency of Platt in this regard. However, as discussed above, Takahashi et al. likewise fails to disclose or suggest requesting payment for a program after the program is executed to confirm its proper operation. Consequently, the proposed combination of Platt and Takahashi et al. would not have made claim 21 obvious.

While claims 22 and 25 are stated in the office action to be rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Oki et al. in view of Alexander et al. (U.S. Patent No. 6,134,593), the body of the rejection of these claims makes reference to Takahashi et al., not Alexander et al. See 1/13/2006 Office Action, page 9. The combination of Oki et al. and Takahashi et al. is deficient with respect to the payment features of claims 22 and 25 for the reasons set forth above. Moreover, in connection with claim 25, the office action does not indicate where either Oki et al. or Takahashi et al. discloses the concept of transmitting a notification of operation confirmation to a server. In particular, Figure 5 of Oki et al. is mentioned as allegedly showing a confirming operation, but as discussed above, this portion of Oki et al. does not show or suggest confirming operation of a program or transmitting a notification about the confirming operation.

Claims 28-30 were rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Oki et al. in view of Thomas (U.S. Patent No. 4,446,519).

As discussed in the prior response of August 17, 2005, Thomas discloses that security for computer software may be achieved by providing each purchaser of a software package with an electronic security device, which must be operatively connected to the purchaser's computer. The software sends coded interrogation signals to the electronic security device, which processes the interrogation signals and transmits coded response signals to the software. The program will not be executed unless the software recognizes the response signals according to pre-selected security criteria.

Thomas contains no disclosure of downloading a program from a server, much less sending confirmation to such a server confirming operation of a program downloaded therefrom. Instead Thomas discloses a plug-in circuit board element ("ESD") that is provided to legitimate purchasers of a software program. When the program is loaded into the working memory (RAM or ROM) of the computer and the program sequence is commenced, the software generates

coded interrogation signals that are transmitted to the ESD. If the ESD is the correct one, which has been furnished to the purchaser along with the program, the ESD will recognize the interrogation signals and transmit proper coded response signals to the working memory of the computer. If and only if the software in the working memory receives the proper response signal from the ESD, the software will then generate command signals to the computer, which cause execution of the program. If the proper response signals are not received by the working memory containing the software program, the command signals are not generated and the computer cannot execute the program. Thus, Thomas is concerned with determining whether a program may be executed, not confirming operation of a program by executing it and then sending a signal to a server regarding the confirming. Consequently, Applicants respectfully submit that there is no disclosure or suggestion in Thomas of sending confirmation of proper operation of a program to a server from which a program has been downloaded and Thomas does not remedy the deficiencies of Oki et al. in this regard.

The 1/13/2006 office action provides no response to these arguments for claims 28-30, which were previously presented in the August 17, 2005 response.

Claims 31 and 32 were rejected under 35 U.S.C. Section 103(a) as allegedly being “obvious” over Fawcett (U.S. Patent No. 6,073,214) in view of Merkle et al. (U.S. Patent No. 6,330,549).

Claim 31 is directed to a method performed by a user system to obtain a program from a server. The method comprises sending to the server operating environment data of the user system; receiving from the server a list of programs that is generated based on the operating environment data; sending to the server a request for one of the programs selected from the list; receiving the selected program from the server; installing the received program; executing the installed program to confirm its operation; and sending to the server a notification regarding the confirmation of operation.

Fawcett discloses a system and method for updating software on a user’s computer in which, after a user computer establishes two-way communications with the update service computer, an inventory of computer software on the user computer is completed without interaction from the user, sent to the update service computer, and compared to database entries on the update service computer. The database entries from the database connected to the update

service computer contain information about computer software that is available to a user. After the comparison, the user computer is sent back a summary of available computer software, which is displayed for the user. The summary contains information such as the availability of patches and fixes for existing computer software, new versions of existing computer software, and brand new computer software, new help files, etc. The user is then able to make one or more choices from the summary of available computer software, and have the computer software transferred from the update service computer to the user computer. The user may choose to update on the fly, or store update information for future update needs.

Fawcett does not disclose, among other things, executing an installed program to confirm its operation and then sending to a server a notification regarding the confirmation of operation. To remedy this deficiency, the Examiner relies on Merkle et al.

Merkle et al. describes that the functionality of "protected shareware" may be controlled by a digitally signed messaging protocol. Protective code within the shareware controls the functionality of the shareware in response to authorization messages that are supplied directly or indirectly by the shareware supplier. These messages are digitally signed in whole or part by or on behalf of the shareware supplier using the supplier's secret signing key. The shareware, in turn, includes the public checking key for this digital signature of the supplier, thereby enabling the protective code to authenticate any such authorization message before acting in reliance upon it. The shareware includes an integrity self-checking routine, which is run at appropriate times to ensure that shareware, including its protective code, is in an anticipated state.

Merkle et al. discloses communicating usage information to a billing computer, but contains no disclosure or suggestion of sending a notification regarding the confirmation of program operation to a server from which the program was downloaded. In other words, while Merkle et al. might suggest providing a billing computer to monitor usage, Merkle et al. does not (absent improper hindsight) suggest confirming operation of a program or sending a confirmation of this operation to the server that provided the program. Consequently, the proposed combination of Fawcett and Merkle et al. would not have made claim 31 and its dependent claim 32 obvious.

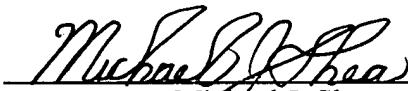
NOMURA et al.
Appl. No. 09/892,747
Response to Office Action dated January 13, 2006

Applicants note that here again the 1/13/2006 office action provides no response to these arguments for claims 31 and 32, which were previously presented in the August 17, 2005 response.

The pending claims are believed to be allowable and favorable office action is respectfully requested.

Respectfully submitted,

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